

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMES SINGLETON,

Plaintiff,

v.

AARON LOWELL NIELSEN, *et al.*,

Defendants.

CASE NO. C07-0742RSM

ORDER GRANTING MOTION  
FOR RELEASE OF PROPERTY

**I. INTRODUCTION**

This matter comes before the Court on adverse claimant Steven Hansen's Motion for Release of Property. (Dkt. #10). Mr. Hansen asks the Court to direct plaintiff to return certain personal property and third-party property that was recently seized in satisfaction of a default judgment against Hansen Yacht Sales, Inc. He argues that none of that property belongs to the now-defunct corporation, and, therefore, it was improperly seized and may not be retained by plaintiff. Plaintiff responds that Mr. Hansen does not have standing to make this motion, and that, in any event, there is a presumption that the seized property belongs to the corporation. (Dkt. #11). For the reasons set forth below, the Court disagrees with plaintiff and GRANTS Mr. Hansen's motion for release of property.

## **II. DISCUSSION**

### **A. Background**

This action arises from an injury accident that took place in 2002. Former defendant Jimmie Melvin Farmer is a retired Boeing Engineer. In 2002, he decided to purchase a 42-foot yacht for his personal use. He contacted Steve Hansen at Hansen Yacht Sales about a vessel he had for sale, the M/V BISCUIT.

Mr. Farmer agreed to purchase the vessel, but required the deck to be relaminated as a condition of the sale. The vessel owner refused to pay for the repairs, so Steve Hansen told Mr. Farmer that he would have his son, co-defendant Eric Hansen, relaminate the deck at Hansen Yacht Sales' expense.

After Eric Hansen finished the initial relamination, Mr. Farmer hired him to complete additional painting of the vessel. Eric Hansen apparently hired Mr. Nielsen to help him with the job.

The work commenced while the BISCUIT was moored in Port Orchard. However, due to complaints about noise and dust by neighboring vessel owners, Eric Hansen was required to find a new place to finish the work. His father Steve Hansen happened to represent the seller of a boathouse in Port Townsend, so Mr. Farmer moved the vessel there.

In June of 2002, workmen began preparing the Port Townsend boathouse for a move to Seattle as part of its sale. On June 26, 2002, Mr. Nielsen moved the BISCUIT from the boathouse to a slip in the port of Port Townsend. There was a dispute as to whether Mr. Nielsen had Mr. Farmer's permission to operate and move the boat. As Mr. Nielsen attempted to bring the vessel into the slip, he asked a man on the dock – plaintiff in this action – to help him. In the course of rendering that assistance, plaintiff was injured when Mr. Nielsen apparently applied too much pressure to the throttle, ramming the yacht into the dock and pinning plaintiff against another vessel.

A lawsuit followed, wherein plaintiff named Mr. Nielsen, Mr. Farmer, Eric Hansen individually and as agent for Hansen Yacht Sales, and the M/V BISCUIT as defendants. Steven

1 Hansen was never named as a defendant. Mr. Farmer ultimately moved for summary judgment,  
2 which this Court granted, dismissing all claims against him. The Court entered default judgment  
3 against all remaining defendants.

4 As a result, plaintiff moved for entry of a break and enter order, which would allow him to  
5 seize property purportedly located at the corporate headquarters of Hansen Yacht Sales in  
6 satisfaction of the default judgment. With reservation, this Court granted the motion, and a break  
7 and enter order was issued. Plaintiff, with the assistance of the United States Marshal Service, then  
8 seized property from that location. The instant motion followed.

9 **B. Request for Release of Property**

10 Steven Hansen, as an adverse claimant, asks the Court to direct plaintiff to return three  
11 categories of property: (1) adverse claimant's personal papers including, records related to  
12 foreclosure of his residence; personal bills; personal correspondence; and records of income and  
13 expenses; (2) boat owners' records; and (3) an HP Notebook computer belonging to Steven and  
14 Janet Hansen individually. Mr. Hansen argues that this property does not, and never did, belong to  
15 Hansen Yacht Sales, and therefore it was improperly seized. Plaintiff responds that Mr. Hansen  
16 lacks standing to request the return of some of these items, and the remaining items are presumed to  
17 be property of the corporation. The Court is not persuaded.

18 First, plaintiff fails to cite any authority pertaining to Mr. Hansen's standing in this action.  
19 Moreover, pursuant to RCW 6.19.030, Washington state<sup>1</sup> explicitly provides standing to adverse  
20 claimants challenging a levy:

21 Without giving a bond, an adverse claimant who delivers to the sheriff an affidavit  
22 as described in subsection (1) of this section may, on motion made within seven  
23 days after delivering the affidavit, appear in the court specified in RCW 6.19.050,  
24 with notice to the sheriff and to the attorney of record for the levying creditor, if  
any, otherwise to the levying creditor, and set a hearing at which the probable  
validity of the claim stated in the affidavit can be considered. If the court, after the

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25 <sup>1</sup> At all times relevant to this action, plaintiff has represented to this Court that he was pursuing a  
26 break and enter Order pursuant to Washington state law.

1 hearing, finds that the claim is probably valid, it shall direct the sheriff to release  
2 the claimed property to the claimant; otherwise, the court shall direct the sheriff  
3 to continue to hold the property unless the claimant gives a bond as provided in  
4 subsection (1) of this section.

5 RCW 6.19.030(2). Mr. Hansen has filed an Affidavit of Adverse Claimant as required, (dkt. #9), and  
6 moved for relief within seven days of that motion. Thus, the Court finds that Mr. Hansen has  
7 standing.

8 The Court now turns to the “probable validity” of Mr. Hansen’s claim. By way of briefing  
9 the instant motion, plaintiff has been provided with an opportunity to respond to Mr. Hansen’s  
10 allegations, and has had the opportunity to produce any evidence in opposition of his claim. Having  
11 reviewed plaintiff’s opposition, the Court finds that Mr. Hansen’s claim is probably valid.

12 First, there can be no presumption that the property in dispute belongs to Hansen Yacht  
13 Sales. Indeed, the location from which the property was seized was leased in the name of Ronald  
14 Seaberg and Steve Hansen d/b/a Executive Yacht Sales, none of whom are, or were, parties to the  
15 action. That lease became effective February 1, 2007, nearly two months prior to the property  
16 seizure. Likewise, there can be no presumption that boat owners’ records located on the premises  
17 belonged to Hansen Yachts Sales, and plaintiff provides no other authority persuading the Court that  
18 the records belonged to the debtor corporation.<sup>2</sup>

19 Second, plaintiff’s sole argument against return of the computer is that Mr. Hansen failed to  
20 provide a receipt for the computer. However, Mr. Hansen has provided a receipt for the laptop  
21 computer demonstrating that he paid for the computer by check both to this Court and in previous  
22 correspondence to plaintiff’s counsel. Accordingly, the Court finds no basis for plaintiff’s argument.

23 Finally, there can be no serious argument that personal bills and other documents solely in the  
24 name of Steven Hansen are property of Hansen Yacht Sales or any other defendant. Indeed, plaintiff  
25 merely argues that he was unaware such papers had been taken. Thus, the Court agrees that those

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26 <sup>2</sup> The Court notes, and Mr. Hansen acknowledges, that other property seized on the premises was  
owned by Hansen Yacht Sales. That property is not the subject of the instant motion.

1 documents should be returned.

2 The Court had reservations about issuing a broad break and enter Order from the outset of  
3 plaintiff's request for such Order. Those reservations were expressed during a telephone conference  
4 with plaintiff and representatives from the U.S. Marshal Service on March 19, 2007. (*See* Dkt. #6).  
5 Among the concerns expressed by the Court was the strong likelihood that property not belonging to  
6 the debtor corporation would be improperly seized. It appears that concern has become a reality.  
7 Accordingly, the Court will remedy the situation, and grant Mr. Hansen's motion for release of  
8 property.

### 9 **III. CONCLUSION**

10 Having reviewed Mr. Hansen's motion, plaintiff's opposition, Mr. Hansen's reply, and the  
11 remainder of the record, the Court hereby ORDERS:

12 (1) Mr. Hansen's Motion for Release of Property (Dkt. #10) is GRANTED.

13 (2) The United States Marshal Service is hereby DIRECTED to return: (1) adverse  
14 claimant's personal papers including, records related to foreclosure of his residence; personal bills;  
15 personal correspondence; and records of income and expenses; (2) boat owners' records; and (3) an  
16 HP Notebook computer belonging to Steven and Janet Hansen individually, no later than five  
17 business days from the date of this Order.

18 (3) Plaintiff and Mr. Hansen are DIRECTED to coordinate the return of this property with  
19 the United States Marshal Service at a mutually agreeable date and time. Should any dispute arise as  
20 to specific documents being returned, the Marshal Service shall continue to hold those documents,  
21 and the parties may move for a decision with respect to that specific property. If such a motion  
22 should become necessary, the moving party shall provide the Court with a specific description of the  
23 property to aid in the Court's review. A copy of any such motion shall be provided as a courtesy to  
24 the United States Marshal Service.

25 (4) The Clerk shall forward a copy of this Order to all counsel of record and to the United  
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1 States Marshal Service.

2 DATED this 23rd day of May, 2007.

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4 RICARDO S. MARTINEZ  
5 UNITED STATES DISTRICT JUDGE  
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